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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-250

ANTIQUITIES ACT OF 1906

MARCH 28, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 1487]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1487) to provide for public participation in the declaration of national monuments under the Act popularly known as the Antiquities Act of 1906, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 1487 is to provide for public participation in the declaration of national monuments under the Act popularly known as the Antiquities Act of 1906.

BACKGROUND AND NEED

In 1906 Congress passed the Antiquities Act (16 U.S.C. 431). The Act was designed to respond to an urgent need to protect the Nation's historic landmarks, historic and prehistoric structures and other objects of historic or scientific interest located on lands owned by the Government of the United States.

Since 1906, 105 national monuments have been established by presidential proclamation. When established, these monuments comprised almost 63 million acres. Of the 105 monuments, 89 (comprising approximately 7 million acres) were established before pas-

sage of either the National Environmental Policy Act of 1969, or the Federal Land Policy and Management Act of 1976. In December 1978, 15 additional monuments, covering 54 million acres, were established in Alaska. The most recent use of the Antiquities Act occurred in September 1996, when 1.7 million acres in southern Utah were designated as the Grand Staircase-Escalante National Monument.

Since the passage of the Antiquities Act in 1906 many laws have been enacted which provide for increased public participation in the management of federal lands. While the Antiquities Act confers presidential authority to designate new monuments, it contains no requirements for public participation prior to any such designation.

H.R. 1487 amends the Antiquities Act to require the President to solicit public participation and comment in development of a monument declaration, and to consult with the Governor and congressional delegation within the affected State prior to declaration to the extent such public participation and congressional consultation is consistent with the protection of the resources to be included in the monument. The bill also requires that any management plan developed subsequent to a monument declaration be in compliance with the procedural requirements of the National Environmental Policy Act of 1969.

While H.R. 1487 does not diminish the authority of the President to protect public lands and resources, it provides for increased public participation and in the designation of national monuments, consistent with other recent laws pertaining to the management of public lands.

LEGISLATIVE HISTORY

H.R. 1487 was introduced on April 22, 1999, by Congressman Hansen. An amended version of the bill passed the House of Representatives on September 24, 1999 by a vote of 408 to 2 and was referred to the Senate Committee on Energy and Natural Resources on September 27, 1999. On July 20, 1999, the Subcommittee on Forests and Public Land Management held a hearing on a related Senate measure, S. 729, introduced by Senator Craig and others. At its business meeting on October 20, 1999, the Committee on Energy and Natural Resources ordered H.R. 1487 reported favorably without amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on October 20, 1999, by a majority vote of a quorum present recommends that the Senate pass H.R. 1487 without amendment.

The rollcall vote on reporting the measure was 12 yeas, 8 nays as follows:

YEAS	NAYS
Mr. Murkowski	Mr. Domenici
Mr. Nickles	Mr. Craig
Mr. Gorton	Mr. Campbell ¹
Mr. Bingaman	Mr. Thomas
Mr. Akaka	Mr. Smith ¹

Mr. Dorgan
Mr. Graham ¹
Mr. Wyden ¹
Mr. Johnson
Ms. Landrieu
Mr. Bayh ¹
Mrs. Lincoln

Mr. Bunning
Mr. Fitzgerald
Mr. Burns

¹ Indicates vote by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 2 of the Act of June 8, 1906, popularly known as the Antiquities Act to require the President, to the extent consistent with the protection of the resources to be designated, to:

- (1) Solicit public participation and comment in the development of a monument declaration, and
- (2) To consult with the Governor and congressional delegation of the State or territory in which the movement will be located at least 60 days prior to the declaration of such monument.
- (3) Before issuing a monument declaration the President must consider information available in existing management plans, including any public comments, that may have been offered.

Subsection 2(c) as amended, requires that any management plan that is developed for a national monument after its declaration shall comply with the procedural requirements of the National Environmental Policy Act of 1969.

Section 2 states that nothing in this Act or any amendment made by this Act should be construed to enlarge, diminish or modify the authority of the President to protect public land and resources.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 2, 1999.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1487, an act to provide for public participation in the declaration of national monuments under the act popularly known as the Antiquities Act of 1906.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1487—An act to provide for public participation in the declaration of national monuments under the act popularly known as the Antiquities Act of 1906

The Antiquities Act of 1906 authorizes the President to declare landmarks, structures, and other objects of historic or scientific interest that are on federal land to be national monuments. H.R. 1487 would amend this act to require that the President solicit public participation and comment and consider information available from existing management plans and programs in the development of national monument declarations. H.R. 1487 also would require that future management plans for national monuments developed subsequent to a declaration made under H.R. 1487 comply with the procedural requirements of the National Environmental Policy Act of 1969.

CBO estimates that implementing this legislation would not have a significant impact on the federal budget. The act would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1487 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On July 16, 1999, CBO transmitted a cost estimate for H.R. 1487, as ordered reported by the House Committee on Resources on June 30, 1999. The two versions of the legislation are similar, and the cost estimates are the identical.

The CBO staff contact is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1487.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1487, as ordered reported.

EXECUTIVE COMMUNICATIONS

Prior to the consideration of H.R. 1487 on the House floor, the Administration issued the following Statement of Administrative Policy on H.R. 1487:

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies)

H.R. 1487—Antiquities Act Amendments (Hansen (R) UT and 10 cosponsors)

The Administration strongly opposes H.R. 1487, as reported by the Committee on Resources, because the bill represents an unwarranted incursion upon established presidential authority to protect significant natural, pre-historical, historical, and scientific resources on federal lands. If H.R. 1487 is presented to the President, his senior advisers will recommend that he veto the bill.

The Antiquities Act of 1906 authorizes the President, at his discretion, to declare federal lands to be national monuments. Over the course of this century, every President but three has employed this authority to protect sites across this country—from the Statue of Liberty, New York, to the coastal redwood stands of Muir Woods, California—that now are acknowledged to be the Nation's most treasured places. Historically, Presidents have invoked the Act's authorities to protect areas that faced imminent threat. While some of these declarations have stirred local opposition—notably President Theodore Roosevelt's declaration of the Grand Canyon National Monument, Arizona—and others have caused Congress to consider amending the 1906 Act—such as President Franklin Roosevelt's declaration of Jackson Hole National Monument, Wyoming, now part of Grant Teton National Park—history soundly refutes any suggestion that this unique presidential authority has been abused.

H.R. 1487 would impose procedural and notification requirements and other limitations that would undermine the President's authority to move decisively to protect and preserve the Nation's treasures for future generations. Any diminutions of the President's authority would be contrary to the Act's spirit and protective purposes.

MINORITY VIEWS OF SENATORS LARRY E. CRAIG, PETE V.
DOMENICI, BEN NIGHTHORSE CAMPBELL, CRAIG THOMAS,
GORDON SMITH, AND CONRAD BURNS

The designation of National Monuments under the Antiquities Act of 1906 impacts the lives of numerous people—both those who live adjacent to these areas and those who are located in other geographic areas. It is because of such impacts that we feel it is appropriate to look closely at the use of the Antiquities Act on our federal lands.

H.R. 1487 takes a step in the right direction allowing public participation in the designation of a monument; However, we do not feel it goes far enough in ensuring such participation take place at a time in the process when comments from the public will be considered prior to such designation by the President.

We feel that legislation changing the Act of 1906 must allow for public and Congressional involvement beyond that of “consultations” prior to the designation for monument. To simply require that the National Environmental Policy Act of 1969 be applied to the development of a management plan for a designated monument rather than the underlying action of monument designation is closing the barn door after the horses have gotten out. We feel that Congress and the public must be involved prior to the opening the barn door, prior to the designation decision being made, and thus must respectfully dissent with H.R. 1487.

LARRY E. CRAIG.
PETE V. DOMENICI.
BEN NIGHTHORSE CAMPBELL.
CRAIG THOMAS.
GORDON SMITH.
CONRAD BURNS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 1487 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Section 2 of the Act of June 8, 1906 (Popularly Known as the Antiquities Act of 1906)

CHAP. 3060.—An Act for the preservation of American antiquities.

* * * * *

[SEC.2. That the] *SEC. 2 (a) The President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.*

(b)(1) To the extent consistent with the protection of the historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest located on the public lands to be designated, the President shall—

(A) solicit public participation and comment in the development of a monument declaration; and

(B) consult with the Governor and congressional delegation of the State or territory in which such lands are located, to the extent practicable, at least 60 days prior to any national monument declaration.

(2) Before issuing a declaration under this section, the President shall consider any information made available in the development of existing plans and programs for the management of the lands in question, including such public comments as may have been offered.

(c) Any management plan for a national monument developed subsequent to a declaration made under this section shall comply

with the procedural requirements of the National Environmental Policy Act of 1969.

